

Application No. 10/518,327
Amendment Dated September 3, 2009
Response to Office Action Dated March 3, 2009

Remarks

Claims 1, 2 and 4-13 are pending.

Claims 1, 2 and 4-13 stand rejected.

Claim 4 has been cancelled.

Claims 1 and 8 have been amended.

Claim 14 has been added.

Claims 1, 2 and 5-14 are submitted herein for review.

No new matter has been added.

In paragraphs 4-6 of the Office Action, the Examiner has rejected claims 11-13 under 35 U.S.C. §§ 112 and 101 because they include both method steps and apparatus elements. Applicants respectfully submit that, although in some instances such a rejection may be warranted, in this application, claim 11 should not be subjected to such a rejection.

Claim 11 reads:

An apparatus for delivering goods or services against payment, of the automatic type, *employing the method for diagnosing malfunctions as set forth in claim 1*, said apparatus comprising:

a means of payment;

a means for calculating the value of at least one data item representative of the operation of said apparatus, where said at least one data item representative of the operation of said apparatus is the time that has elapsed since a latest payment made with the means of payment, and will elapse as long as no other payment is made with the means of payment;

a means of comparing said calculated value to a reference value; and

a means for detecting the occurrence of a malfunction in the event said calculated value is superior to the reference value.

Claim 11 is primarily an apparatus claim, which is dependent to method claim 1. It is clear that this is an apparatus claim as the only mention of the method steps (by dependency incorporation) are in the preamble of the claim. See for example, MPEP 2173.05(p) "A claim to a device, apparatus, manufacture, or composition of matter may contain a reference to the process in which it is intended to be used without being objectionable under 35 U.S.C. 112, second paragraph, *so long as it is clear that the claim is directed to the product and not the process.*"

In paragraph 9 of the Office Action, the Examiner has rejected claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Konsmo et al. (U.S. Patent No. 5,844,808). Applicants respectfully disagree and submit the following remarks in response.

Claim 1 is directed to a method for diagnosing malfunctions occurring on an automatic terminal type apparatus for delivering goods or services against payment, received at one of at least two different means of payment.

The method includes, for each means of payment, calculating the value of at least one respective data item representative of an operation of the apparatus, where the at least one data item representative of the operation of the apparatus is an amount of time that has elapsed since a latest payment made with the means of payment and the time that is intended to elapse as long as no other payment is made with the means of payment;

Each calculated value is compared to a respective predetermined reference value and the occurrence of a malfunction is deduced in the event one of the calculated values is superior to

its predetermined reference value.

As noted in paragraphs [0047]-[0048] this transaction monitoring program allows for the calculation of at least one parameter (eg. time T that has elapsed since issuing the last voucher) significant of the execution of transactions. This parameter is calculated for each payment means, because one may have been vandalized but not another.

For example, if the parking voucher dispensers incorporate a card reader and a coin sorter, two parameters are calculated, namely a time T_m for coin payments and a time T_c for card payments. A distinction may also be made between magnetic card payments and smart card payments or between payments by Visa/Masterard type credit cards and Moneo type electronic wallets, in that each type of payment utilizes specific means that could malfunction.

Thus a microprocessor may calculate the time T periodically as the difference between *the present time and the time of the most recent transaction for the payment means concerned*. The time T is then compared to a stored threshold value T_{max} , and if the latter is exceeded an alarm is tripped. See paragraphs [0050]-[0051].

Regarding new claim 14, the T_{nom} , T_{max} curves are obtained by direct statistical analysis of observed raw data in the voucher dispenser 1 or the whole or a portion of the installed base of parking voucher dispensers. The curves may be generated by the parking voucher dispenser directly or by the PMS server 5. See paragraph [0064].

The cited prior art, namely Konsmo describes a process for transferring a

“delayed message” from the local unit to the host computer in a remote vending machine monitoring system. The delayed message is a message type whose transfer to the host computer is dependent on whether or not a second event occurs in the local unit (see column 8, lines 48-50).

For example, Konsmo describes generating a delayed message if no sales signal has been generated in a vending machine *after a signal has been generated that payment has been disbursed corresponding to the sales price*. See column 8, lines 50 to 54. Therefore Konsmo describes a system and method that only begins counting time (in the delayed message) when a first sale is begun but not completed until either a predetermined time or a second sale is fully transacted (meaning that any possible problem with the first sale is apparently solved). There is no teaching of measuring the time from *a completed first transaction* to a predetermined time. Likewise, there is no distinction between measuring time from completed first transaction of one payment type among two or more payment types at one terminal.

As such, Applicants respectfully submit that the cited prior art does not teach or suggest all of the elements of the present invention as claimed in claim 1. For example, there is no teaching or suggestion in Konsmo that discloses a method for diagnosing malfunctions occurring on an automatic terminal type apparatus received at one of at least two different means of payment where, for each means of payment, calculates the value of at least one respective data item representative of an operation of the apparatus.

Likewise, there is no teaching or suggestion in Konsmo that discloses that at least

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one data item representative of the operation of the apparatus is an amount of time that has elapsed since *a latest payment made with the means of payment* and the time that is intended to elapse as long as no other payment is made with the means of payment.

For at least these reasons, Applicants respectfully request that the prior art rejection of independent claim 1 be withdrawn. Also, as claims 2 and 5-14 depend from independent claim 1, these rejections should be withdrawn as well for at least the same reasons set forth above.

In view of the foregoing, Applicant respectfully submits that pending claims 1, 2 and 5-14 are in condition for allowance, the earliest possible notice of which is earnestly solicited. If the Examiner feels that an interview would facilitate the prosecution of this Application he is invited to contact the undersigned at the number listed below.

Respectfully submitted,

SOFER & HAROUN, L.L.P.

By /Joseph Sofer/
Joseph Sofer
Reg. No 34,438
317 Madison Avenue
Suite 910
New York, NY 10017
(212) 697-2800
Customer # 39600

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